

REMARKS

Claims 1-10 are pending in this application. Claims 1-10 stand rejected. By this Amendment, claims 1-10 have been amended. The amendments made to the claims do not alter the scope of these claims, nor have these amendments been made to define over the prior art. Rather, the amendments to the claims have been made to improve the form thereof. In light of the amendments and remarks set forth below, Applicant respectfully submits that each of the pending claims is in immediate condition for allowance.

Applicant notes that the IDS submitted May 14, 2004, has not been acknowledged, a copy of the PTO SB-08 is included for the Examiner's convenience. Applicant respectfully requests that the Examiner acknowledge the references cited on the IDS.

Claims 1-7 and 9 were objected to for being prefaced with the word "A" instead of "The". Applicant has amended the claims in light of this objection. As such, Applicant respectfully requests withdrawal of the objection.

Claims 1-7 and 10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,330,586 ("Yates"). Applicant respectfully requests reconsiderations and withdrawal of this rejection.

To anticipate a claim under 35 U.S.C. § 102, the cited reference must disclose every element of the claim, as arranged in the claim, and in sufficient detail to enable one skilled in the art to make and use the anticipated subject matter. See, PPG Industries, Inc. v. Guardian Industries Corp., 75 F.3d 1558, 1566 (Fed. Cir.

1996); C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1349 (Fed. Cir. 1998). A reference that does not expressly disclose all of the elements of a claimed invention cannot anticipate unless all of the undisclosed elements are inherently present in the reference. See, Continental Can Co. USA v. Monsanto Co., 942 F.2d 1264, 1268 (Fed. Cir. 1991).

Each of Applicant's independent claims recite a service broker device at the functional host layer for providing a broker function for achieving agreement between said plurality of providers. This express limitation is not present in the Yates reference.

In Yates, each domain has a Distributed Processing Environment ("DPE"). The DPE supports the interactions of computational objects. As such, the DPE shields application programs from the heterogeneous and distributed nature of the underlying environment, and provides the mechanism that allows objects to interact without knowing the computing nodes they are on. Col. 10, lns. 32, et seq. Each of the domains typically represent areas of supply and management responsibility and will contain or provide data and functionality appropriate with their respective areas.

Intelligent software agents sit each of the domains. The agents are responsible, in each case, for representing a set of local resources, with respect to their particular domains, and they negotiate with each other for the best allocation of their collective resources to fulfill a service request. Col. 14, ln. 66 through col. 15, ln. 7. Each agent uses local knowledge of its resource domain to offer the supply of those resources to other agents at agree standards and specifications. Any

of the agents may supply and request resources. Col. 15, lns. 28-31. As such, it is clear that each domain negotiates with each other domain for achieving agreement between each of the domains without a service broker at the functional host layer.

In contrast, Applicant explicitly recites a service broker device at a functional host layer of the network service management device cluster which provides a broker function for achieving agreement between said plurality of providers. Thus, the network service management devices are not negotiating with each other as disclosed by the Yates reference. Applicant respectfully requests reconsideration and withdrawal of the rejection.

Claims 2-7 depend from, and contain all the limitations of claim 1. These dependent claims also recite additional limitations which, in combination with the limitations of claim 1, are neither disclosed nor suggested by Yates and are also believed to be directed towards the patentable subject matter. Thus, claims 2-7 should also be allowed.

Paragraph 13 of the Office Action rejects claims 8 and 9 under 35 U.S.C. § 103(a) as being unpatenable over Yates in view of U.S. Patent No. 6,594,700 (“Graham”). Applicant respectfully requests reconsideration and withdrawal of this rejection.

The Yates reference was not included to cure the deficiency discussed above with reference to the Yates patent but to include additional limitations which, even if it were to provide, does not cure the deficiency in Yates discussed above. As

such, Applicant respectfully asserts that claims 8 and 9 are allowable over the cited reference.

Applicant has responded to all of the rejections and objections recited in the Office Action. Reconsideration and a Notice of Allowance for all of the pending claims are therefore respectfully requested.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If the Examiner believes an interview would be of assistance, the Examiner is welcome to contact the undersigned at the number listed below.

Dated: September 14, 2004

Respectfully submitted,

By 

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IRB/mgs
Enclosure (PTO SB-08)



PTO/SB/08a/b (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

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Substitute for form 1449A/B/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)				Complete if Known	
				Application Number	09/818,955-Conf. #9861
				Filing Date	March 27, 2001
				First Named Inventor	Koji Nishi
				Art Unit	Not Yet Assigned
				Examiner Name	Not Yet Assigned
Sheet	1	of	1	Attorney Docket Number	X2850.0047/P047

U.S. PATENT DOCUMENTS					
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	BA	-WO 00/01117	01-06-2000			

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NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
	CA	Copy of Japanese Office Action dated March 30, 2004 (and English translation of relevant portion)	
	CB	Nakamura et al., "A Study on Multimedia Service Composition Mechanism", The Institute of Electronics, Information and Communication Engineers, Technical Report of IEICE, SSE95-176, IN95-120, pgs. 1-6 (1996)	
	CC	Nakamura et al., "A Pricing and Accounting Software Architecture for QoS Guaranteed Services on the Multi-Domain Network", The Institute of Electronics, Information and Communication Engineers, IEICE Technical Report, Vol. J82-B, No. 5, pgs. 750-758 (1999)	

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